

HOUSE BILL No. 5698

March 16, 1992, Introduced by Rep. Anthony and referred to the Committee on Judiciary.

A bill to amend sections 33b, 33c, and 50 of Act No. 8 of the Public Acts of the Extra Session of 1933, entitled as amended "The Michigan liquor control act," section 33b as amended by Act No. 176 of the Public Acts of 1986 and section 33c as amended by Act No. 12 of the Public Acts of 1983, being sections 436.33b, 436.33c, and 436.50 of the Michigan Compiled Laws.

THE PEOPLE OF THE STATE OF MICHIGAN ENACT:

1 Section 1. Sections 33b, 33c, and 50 of Act No. 8 of the
2 Public Acts of the Extra Session of 1933, section 33b as amended
3 by Act No. 176 of the Public Acts of 1986 and section 33c as
4 amended by Act No. 12 of the Public Acts of 1983, being sections
5 436.33b, 436.33c, and 436.50 of the Michigan Compiled Laws, are
6 amended to read as follows:

1 Sec. 33b. (1) A person less than 21 years of age shall not
2 purchase alcoholic liquor, consume alcoholic liquor, ~~in a~~
3 ~~licensed premises,~~ or possess alcoholic liquor, except as pro-
4 vided in THIS SECTION AND section 33a(1). ~~of this act. A~~
5 NOTWITHSTANDING SECTION 50 AND EXCEPT AS OTHERWISE PROVIDED IN
6 THIS SECTION, A person less than 21 years of age who violates
7 this subsection is liable for A CIVIL INFRACTION AS DEFINED IN
8 SECTION 113 OF THE REVISED JUDICATURE ACT OF 1961, ACT NO. 236 OF
9 THE PUBLIC ACTS QF 1961, BEING SECTION 600.113 OF THE MICHIGAN
10 COMPILED LAWS, AND SUBJECT TO the following: ~~civil fines and~~
11 ~~shall not be subject to the penalties prescribed in section 50.~~

12 (A) ~~(1)~~ For the first violation a CIVIL fine of not more
13 than \$25.00 OR THE COURT MAY ORDER THE PERSON TO PARTICIPATE IN
14 COMMUNITY SERVICE. THE COURT MAY ORDER THAT THE PERSON'S PARENT,
15 GUARDIAN, OR PERSON IN LOCO PARENTIS PAY THE FINE. IN THE CASE
16 OF A PERSON UNDER 17 YEARS OF AGE, A LAW ENFORCEMENT OFFICER MAY,
17 BUT IS NOT REQUIRED TO, ISSUE AN APPEARANCE TICKET OR MAY, BUT IS
18 NOT REQUIRED TO, TRANSPORT OR ARRANGE FOR THE TRANSPORTATION OF
19 THE PERSON TO HIS OR HER RESIDENCE EXCEPT THAT IF THE PARENTS OF
20 THE PERSON ARE NOT PRESENT OR AVAILABLE TO RECEIVE THE PERSON
21 BEING TRANSPORTED TO HIS OR HER PLACE OF RESIDENCE, THE LAW
22 ENFORCEMENT OFFICER MAY PLACE THE PERSON IN A FOSTER HOME OR
23 YOUTH DETENTION CENTER, WHICH PLACEMENT SHALL BE PAID BY THE
24 PERSON'S, PARENT, GUARDIAN, OR PERSON IN LOCO PARENTIS. THE LAW
25 ENFORCEMENT OFFICER SHALL ADVISE THE INDIVIDUAL OF THE POSSIBLE
26 SANCTIONS IMPOSED UNDER THIS ACT FOR THE VIOLATION OF THIS
27 SECTION.

1 (B) ~~(iii)~~ For a second violation a CIVIL fine of not more
2 than ~~\$50.00, or~~ \$150.00 AND participation in substance abuse
3 prevention services OR SUBSTANCE ABUSE TREATMENT AND REHABILITA-
4 TION SERVICES as defined in section 6107 of the public health
5 code, Act No. 368 of the Public Acts of 1978, being section
6 333.6107 of the Michigan Compiled Laws, and ~~designated~~ LICENSED
7 by the ~~administrator~~ OFFICE of substance abuse services. ~~, or~~
8 ~~both.~~ A COURT HEARING A MATTER INVOLVING A SECOND VIOLATION OF
9 THIS SECTION MAY ORDER A PARENT, GUARDIAN, OR PERSON IN LOCO PAR-
10 ENTIS TO PARTICIPATE IN ANY SUBSTANCE ABUSE SERVICES ORDERED.
11 THE COURT SHALL ADVISE THE INDIVIDUAL OF THE POSSIBLE SANCTIONS
12 IMPOSED UNDER THIS ACT FOR THE VIOLATION OF THIS SECTION.

13 (2) ~~(iii) For a~~ A third or subsequent violation ~~a fine of~~
14 ~~not more than \$100.00, or participation in substance abuse pre-~~
15 ~~vention services as defined in section 6107 of the public health~~
16 ~~code, Act No. 368 of the Public Acts of 1978, and designated by~~
17 ~~the administrator of substance abuse services, or both~~ OF SUB-
18 SECTION (1) IS A MISDEMEANOR PUNISHABLE IN THE MANNER PROVIDED
19 FOR IN SECTION 50 SUBJECT TO SANCTIONS AGAINST THE VIOLATOR'S
20 OPERATOR'S LICENSE IN THE MANNER PROVIDED FOR IN SUBSECTION (3).

21 (3) IMMEDIATELY UPON THE ENTRY OF A CRIMINAL CONVICTION OF
22 SUBSECTION (1) OR A PROBATE COURT ORDER OF DISPOSITION FOR A VIO-
23 LATION OF SUBSECTION (1), A COURT SHALL CONSIDER ALL PRIOR CON-
24 VICTIONS OR PROBATE COURT ORDERS OF DISPOSITION REGARDING A VIO-
25 LATION OF SUBSECTION (1), OR A LOCAL ORDINANCE OR LAW OF ANOTHER
26 STATE SUBSTANTIALLY CORRESPONDING TO SUBSECTION (1), AND SHALL
27 IMPOSE THE FOLLOWING SANCTIONS:

1 (A) IF THE COURT FINDS THAT THE PERSON HAS NO SUCH PRIOR
2 CONVICTION OR PROBATE COURT ORDER OF DISPOSITION, THE COURT SHALL
3 ORDER THE SECRETARY OF STATE TO SUSPEND THE OPERATOR'S OR
4 CHAUFFEUR'S LICENSE OF THE PERSON FOR A PERIOD OF 30 DAYS. THE
5 COURT MAY ORDER THE SECRETARY OF STATE TO ISSUE TO THE PERSON A
6 RESTRICTED LICENSE DURING ALL OR A SPECIFIED PORTION OF THE
7 PERIOD OF SUSPENSION IN THE MANNER DESCRIBED IN SUBSECTION (4)
8 AND PROVIDED FOR IN SECTION 319F OF THE MICHIGAN VEHICLE CODE,
9 ACT NO. 300 OF THE PUBLIC ACTS OF 1949, BEING SECTION 257.319F OF
10 THE MICHIGAN COMPILED LAWS.

11 (B) IF THE COURT FINDS THAT THE PERSON HAS 1 SUCH PRIOR CON-
12 VICTION OR PROBATE COURT ORDER OF DISPOSITION, THE COURT SHALL
13 ORDER THE SECRETARY OF STATE TO SUSPEND THE OPERATOR'S OR
14 CHAUFFEUR'S LICENSE OF THE PERSON FOR A PERIOD OF 90 DAYS. THE
15 COURT MAY ORDER THE SECRETARY OF STATE TO ISSUE TO THE PERSON A
16 RESTRICTED LICENSE DURING A PORTION OF THE PERIOD OF SUSPENSION
17 IN THE MANNER DESCRIBED IN SUBSECTION (4) AND PROVIDED FOR IN
18 SECTION 319F OF ACT NO. 300 OF THE PUBLIC ACTS OF 1949, BEING
19 SECTION 257.319F OF THE MICHIGAN COMPILED LAWS.

20 (C) IF THE COURT FINDS THAT THE PERSON HAS 2 OR MORE SUCH
21 CONVICTIONS OR PROBATE COURT ORDERS OF DISPOSITION, THE COURT
22 SHALL ORDER THE SECRETARY OF STATE TO SUSPEND THE OPERATOR'S OR
23 CHAUFFEUR'S LICENSE OF THE PERSON FOR A PERIOD OF 180 DAYS AND
24 SHALL NOT ORDER THE SECRETARY OF STATE TO ISSUE A RESTRICTED
25 LICENSE TO THE PERSON.

26 (4) IN THOSE CASES WHERE A RESTRICTED LICENSE IS ALLOWED
27 UNDER THIS SECTION, THE COURT SHALL NOT ORDER THE SECRETARY OF

1 STATE TO ISSUE A RESTRICTED LICENSE UNLESS THE PERSON STATES
2 UNDER OATH, AND THE COURT FINDS BASED UPON THE RECORD IN OPEN
3 COURT, THAT THE PERSON IS UNABLE TO TAKE PUBLIC TRANSPORTATION TO
4 AND FROM HIS OR HER WORK LOCATION, PLACE OF ALCOHOL OR DRUG EDU-
5 CATION TREATMENT, PROBATION DEPARTMENT, COURT-ORDERED COMMUNITY
6 SERVICE PROGRAM, OR EDUCATIONAL INSTITUTION, AND DOES NOT HAVE
7 ANY FAMILY MEMBERS OR OTHERS ABLE TO PROVIDE TRANSPORTATION. THE
8 COURT ORDER UNDER SUBSECTION (3) AND THE RESTRICTED LICENSE SHALL
9 INDICATE THE WORK LOCATION OF THE PERSON TO WHOM IT IS ISSUED,
10 THE APPROVED ROUTE OR ROUTES AND PERMITTED TIMES OF TRAVEL, AND
11 SHALL PERMIT THE PERSON TO WHOM IT IS ISSUED ONLY TO DO 1 OR MORE
12 OF THE FOLLOWING:

13 (A) DRIVE TO AND FROM THE PERSON'S RESIDENCE AND WORK
14 LOCATION.

15 (B) DRIVE IN THE COURSE OF THE PERSON'S EMPLOYMENT OR
16 OCCUPATION.

17 (C) DRIVE TO AND FROM THE PERSON'S RESIDENCE AND AN ALCOHOL
18 OR DRUG EDUCATION OR TREATMENT PROGRAM AS ORDERED BY THE COURT.

19 (D) DRIVE TO AND FROM THE PERSON'S RESIDENCE AND THE COURT
20 PROBATION DEPARTMENT, OR A COURT-ORDERED COMMUNITY SERVICE PRO-
21 GRAM, OR BOTH.

22 (E) DRIVE TO AND FROM THE PERSON'S RESIDENCE AND AN EDUCA-
23 TIONAL INSTITUTION AT WHICH THE PERSON IS ENROLLED AS A STUDENT.

24 (5) IMMEDIATELY UPON THE ENTRY OF A CONVICTION OR A PROBATE
25 COURT ORDER OF DISPOSITION FOR A VIOLATION OF SUBSECTION (1), THE
26 COURT SHALL ORDER THE PERSON FOUND RESPONSIBLE FOR THE VIOLATION
27 TO SURRENDER TO THE COURT HIS OR HER OPERATOR'S OR CHAUFFEUR'S

1 LICENSE. THE COURT SHALL IMMEDIATELY FORWARD A NOTICE OF
2 COURT-ORDERED LICENSE SANCTIONS TO THE SECRETARY OF STATE. IF
3 THE LICENSE IS NOT FORWARDED TO THE SECRETARY OF STATE, AN EXPLA-
4 NATION OF THE REASON WHY THE LICENSE IS ABSENT SHALL BE
5 ATTACHED. IF THE FINDING IS REVIEWED BY THE CIRCUIT COURT, THE
6 COURT MAY, EX PARTE, ORDER THE SECRETARY OF STATE TO RESCIND THE
7 SUSPENSION OR RESTRICTED LICENSE ISSUED PURSUANT TO THIS
8 SECTION. IMMEDIATELY FOLLOWING IMPOSITION OF THE SANCTION, THE
9 COURT SHALL FORWARD A NOTICE TO THE SECRETARY OF STATE INDICATING
10 THE SANCTION IMPOSED.

11 (6) FOR PURPOSES OF ADJUDICATING VIOLATIONS OF THIS SECTION,
12 THE DISTRICT COURT SHALL HAVE JURISDICTION OVER MINORS BETWEEN 17
13 AND 21 YEARS OF AGE. THE JUVENILE DIVISION OF THE PROBATE COURT
14 SHALL HAVE JURISDICTION OVER MINORS UNDER 17 YEARS OF AGE.

15 (7) UPON THE ENTRY OF A DEFAULT JUDGMENT, THE COURT SHALL
16 PROCEED IN ACCORDANCE WITH THE PROCEDURES SET FORTH IN
17 SECTION 321A OF ACT NO. 300 OF THE PUBLIC ACTS OF 1949, BEING
18 SECTION 257.321A OF THE MICHIGAN COMPILED LAWS.

19 (8) ~~-(2)-~~ Fifty percent of the fines collected under subsec-
20 tion (1) shall be deposited with the state treasurer for deposit
21 in the general fund to the credit of the department of public
22 health for substance abuse treatment and rehabilitation
23 services.

24 (9) ~~-(3)-~~ A person who furnishes fraudulent identification
25 to a person less than 21 years of age, or a person less than 21
26 years of age who uses fraudulent identification to purchase
27 alcoholic liquor, is guilty of a misdemeanor. The court shall

1 order the secretary of state to suspend, PURSUANT TO SECTION
2 319(5) OF ACT NO. 300 OF THE PUBLIC ACTS OF 1949, BEING SECTION
3 257.319 OF THE MICHIGAN COMPILED LAWS, for a period of 90 days,
4 the operator or chauffeur license of a person who is convicted of
5 using fraudulent identification in violation of this subsection
6 and the operator or chauffeur license of that person shall be
7 surrendered to the court. The court shall immediately forward
8 the surrendered license and a certificate of conviction to the
9 secretary of state. A suspension ordered under this subsection
10 shall be in addition to any other suspension of the person's
11 operator or chauffeur license.

12 (10) ~~(4)~~ This section shall not be construed to prohibit a
13 person less than 21 years of age from possessing alcoholic liquor
14 during regular working hours and in the course of his or her
15 employment if employed by a person licensed by this act, by the
16 ~~liquor control~~ commission, or by an agent of the ~~liquor~~
17 ~~control~~ commission, if the alcoholic liquor is not possessed for
18 his or her personal consumption.

19 (11) ~~(5)~~ This section shall not be construed to limit the
20 civil or criminal liability of the vendor or the vendor's clerk,
21 servant, agent, or employee for a violation of this act.

22 (12) ~~(6)~~ The consumption of alcoholic liquor by a person
23 ~~under~~ LESS THAN 21 years of age who is enrolled in a course
24 offered by an accredited post secondary educational institution
25 in an academic building of the institution under the supervision
26 of a faculty member shall not be prohibited by this act if the

1 purpose OF THE CONSUMPTION is solely educational and IS a
2 necessary ingredient of the course.

3 (13) AS USED IN THIS SECTION:

4 (A) "PROBATE COURT ORDER OF DISPOSITION" MEANS A PROBATE
5 COURT ORDER OF DISPOSITION FOR A CHILD FOUND TO BE WITHIN THE
6 PROVISIONS OF CHAPTER XIIA OF ACT NO. 288 OF THE PUBLIC ACTS OF
7 1939, BEING SECTIONS 712A.1 TO 712A.28 OF THE MICHIGAN COMPILED
8 LAWS.

9 (B) "WORK LOCATION" MEANS, AS APPLICABLE, EITHER THE SPE-
10 CIFIC PLACE OR PLACES OF EMPLOYMENT, OR THE TERRITORY OR TERRITO-
11 RIES REGULARLY VISITED BY THE PERSON IN PURSUANCE OF THE PERSON'S
12 OCCUPATION, OR BOTH.

13 Sec. 33c. (1) A sheriff or deputy sheriff; village or town-
14 ship marshal; an officer or member of a village, township, or
15 city police department; an officer of the department of state
16 police; or an inspector of the commission who witnesses a viola-
17 tion of section 33b or a local ordinance corresponding to that
18 section, for which violation a ~~-civil-~~ fine OR OTHER SANCTION is
19 prescribed, may stop and detain the person for purposes of
20 obtaining satisfactory identification, seizing illegally pos-
21 sessed alcoholic ~~-beverages-~~ LIQUOR, and issuing an appearance
22 ticket.

23 (2) As used in this section, "appearance ticket" means a
24 complaint or written notice, issued and subscribed by a law
25 enforcement officer OF THE TYPE DESCRIBED IN SUBSECTION (1) or
26 inspector of the commission, directing a designated person to
27 appear in a ~~-designed district or municipal-~~ DESIGNATED court at

1 a designated time in connection with the alleged violation for
 2 which a ~~civil~~ fine OR OTHER SANCTION is prescribed. The
 3 appearance ticket shall consist of the following parts:

4 (a) The original which shall be a complaint or notice to
 5 appear by the officer and filed with the court.

6 (b) The first copy which shall be the abstract of court
 7 record.

8 (c) The second copy which shall be delivered to the alleged
 9 violator.

10 (d) The third copy which shall be retained by the law
 11 enforcement agency.

12 (3) A judge may accept an admission by the defendant of the
 13 allegations of an appearance ticket and the judge shall then
 14 ~~direct the civil fines~~ IMPOSE A FINE OR OTHER SANCTION as
 15 ~~prescribed~~ FURTHER AUTHORIZED by section 33b. If the defendant
 16 denies the allegations of the appearance ticket, the judge shall
 17 then set a date for trial OR HEARING. If the defendant fails to
 18 appear on the date specified on the appearance ticket, the judge
 19 shall enter a default judgment against that defendant AND IMPOSE
 20 A FINE OR OTHER SANCTION AUTHORIZED BY SECTION 33B.

21 Sec. 50. (1) ~~Penalties. Any~~ EXCEPT AS OTHERWISE PRO-
 22 VIDED IN THIS ACT, A person, other than ~~persons~~ A PERSON
 23 required to be licensed under this act, ~~who shall violate~~ FOUND
 24 GUILTY VIOLATING any of the provisions of this ~~act shall be~~ IS
 25 guilty of a misdemeanor.

26 (2) ~~Any~~ A licensee ~~who shall violate~~ FOUND GUILTY
 27 VIOLATING any of the provisions of this act, or any rule or

1 regulation of the commission promulgated ~~hereunder~~ UNDER THIS
2 ACT, ~~shall be~~ IS guilty of a misdemeanor, punishable by impris-
3 onment ~~in the county jail~~ FOR not more than 6 months or by a
4 fine of not more than \$500.00, ~~dollars,~~ or both. ~~, in the dis-~~
5 ~~cretion of the court.~~

6 (3) ~~Any~~ A person ~~, who shall do~~ PERFORMING any act OR
7 ENGAGED IN ANY ACTIVITY for which a license is required under
8 this act ~~, without first obtaining said~~ WHO DOES NOT FIRST
9 OBTAIN A license or any person ~~who shall sell~~ SELLING any alco-
10 holic liquor in any county which ~~shall have~~ HAS prohibited the
11 sale of alcoholic liquor under the provisions of section 57
12 ~~hereof, shall be~~ IS guilty of a felony, punishable by imprison-
13 ment ~~in the state prison~~ FOR not more than 1 year or by a fine
14 of not more than \$1,000.00, ~~dollars,~~ or both. ~~, in the discre-~~
15 ~~tion of the court.~~

16 (4) It is the intent of the legislature that the court, in
17 imposing punishment under the provisions of this section, should
18 discriminate between casual or slight violations and habitual
19 sales of alcoholic liquor or attempts to commercialize violations
20 of this act or any of the rules or regulations of the commission
21 promulgated ~~hereunder~~ UNDER THIS ACT.